

AMENDED IN ASSEMBLY MARCH 27, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

No. 905

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**Introduced by Committee on Agriculture (Galgiani (Chair), Tom Berryhill (Vice Chair), Arambula, Conway, Fuller, Ma, Mendoza, and Yamada)**

February 26, 2009

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An act to amend Sections ~~861 and 882~~ 861, 882, and 45031 of the Food and Agricultural Code, relating to agricultural commodities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 905, as amended, Committee on Agriculture. Agricultural commodities.

Existing law provides that for lots over 200 pounds of any fruits, nuts, or vegetables that are the food product of any tree, vine, or plant, and for lots of over 200 pounds of walnut burl wood, every person who sells that commodity shall provide the buyer or transporter with a record of proof of ownership for each lot of the commodity. Existing law provides that every person who buys the commodity for resale shall obtain from the previous buyer or from the transporter a record of proof of ownership for each lot of the commodity. Other provisions of existing law provide that a violation of these provisions is a misdemeanor.

This bill would ~~remove~~, except regarding walnut burl wood, *as to which* the 200-pound minimum *would continue to apply*, provide a 25-pound minimum for these lots to be subject to the above requirements concerning proof of ownership. The bill would provide that the record of proof of ownership provisions shall also apply to every person who sells or buys the commodity for resale, processing, or further distribution through any commercial or nonprofit enterprise.

By expanding the scope of existing provisions of law, the violation of which is a misdemeanor, this bill would impose a state-mandated local program.

Existing law provides that upon reasonable belief that a person is in unlawful possession of an agricultural commodity, as specified, the commodity may be held by the ~~director~~ *Secretary of Food and Agriculture*, the *county agricultural* commissioner, or by any peace officer and that the commissioner may hold the commodity on the premises where it was seized, pending disposal as specified.

This bill would provide, in addition, that the commodity may be seized by the ~~director secretary, commissioner~~ *commissioner*, or any peace officer, and that the commissioner may take possession and maintain custody of the commodity, pending disposal as specified.

*Existing law provides that every person who is in possession of over 40 pounds of avocados that are produced in this state shall possess a record of proof of ownership of the avocados. Other provisions of existing law provide that a violation of these provisions is an infraction or a misdemeanor, as specified.*

*This bill would instead require a record of proof of ownership for possessing over 25 pounds of avocados. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 861 of the Food and Agricultural Code
- 2 is amended to read:
- 3 861. For ~~any lots~~ *lots of over 25 pounds* of any fruits, nuts, or
- 4 vegetables that are the food product of any tree, vine, or plant, or
- 5 for lots of over 200 pounds of any burl wood from a walnut tree,
- 6 living or dead, and that are marketed for commercial purposes, all
- 7 of the following apply:
- 8 (a) Every person who sells the commodity for resale, processing,
- 9 or further distribution through any commercial or nonprofit

1 enterprise shall provide the buyer or transporter with a record of  
2 proof of ownership for each lot of the commodity.

3 (b) Every person who buys the commodity for resale, processing,  
4 or further distribution through any commercial or nonprofit  
5 enterprise shall obtain from the previous buyer or from the  
6 transporter a record of proof of ownership for each lot of the  
7 commodity.

8 (c) Every person who transports for commercial purposes shall  
9 possess a record showing proof of ownership for each lot of the  
10 commodity during transportation.

11 SEC. 2. Section 882 of the Food and Agricultural Code is  
12 amended to read:

13 882. Upon reasonable belief that a person is in unlawful  
14 possession of a commodity regulated by this chapter, the  
15 commodity may be held or seized by the ~~director~~ *secretary*, the  
16 commissioner, or by any peace officer and shall be turned over to  
17 the custody of the commissioner. The commissioner may hold the  
18 commodity on the premises where it was seized or may take  
19 possession of the commodity and maintain custody until disposed  
20 of according to the requirements of Section 884.

21 SEC. 3. *Section 45031 of the Food and Agricultural Code is*  
22 *amended to read:*

23 45031. Every person who is in possession of over ~~40~~ 25 pounds  
24 of avocados that are produced in this state shall possess a record  
25 of proof of ownership of the avocados.

26 ~~SEC. 3.~~

27 SEC. 4. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.